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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,496	09/12/2003	Lisa Blum	426.42	2439
27019	7590	10/12/2005	EXAMINER	
THE CLOROX COMPANY 1221 BROADWAY PO BOX 2351 OAKLAND, CA 94623			SPISICH, MARK	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 10/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/663,496

Applicant(s)

BLUM ET AL.

Examiner

Mark Spisich

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is FINAL.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 10-14, 16-26, 28, 30 and 31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10-14, 16-26, 28, 30 and 31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 31 is rejected under 35 U.S.C. 102(b) as being anticipated by Johnson, Sr (USP 3,753,267). The patent to Johnson discloses a flexible or elastomeric (column 2, lines 15-16) fitment comprising a base (50) and an integral engagement member (52) adapted to removable engage a handle as well as a scrim (61). The patent to Johnson discloses all of the positively recited limitations of the cleaning head and would be "adapted to" function in the manner recited in the claim. Keep in mind that claim 31 is drawn to the sub-combination of the cleaning head and NOT to the combination with the handle, let alone any particular handle/engagement member connection. All of the elements which are positively recited in claim 31 have the same attributes as the claimed "cleaning head" (a scrim, sponge (deleted) and a flexible fitment) and any alleged difference in operation would pertain to an as yet unclaimed structural feature.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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2. Claims 1,10-14,16-26,28 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson, Sr (USP 3,753,267) in view of Magyar (USP 4,613,446). The patent to Johnson discloses a cleaning head (23) comprising a scrim (61) (a Mylar mesh; column 2, line 37) as well as a one-piece flexible (column 2, lines 15-18) fitment including a base (50) and an integral engagement member (52) adapted to removably engage a handle (21). Any article is inherently "disposable" and the mere inclusion of this term in the preamble does not structurally define over the prior art. The patent to Johnson discloses the invention substantially as claimed with the exception of the scrim including a water-dispersible cleaning composition. The patent to Magyar discloses a cleaning pad comprising a sponge (2) and/or a scrim or mesh (1) (column 5, lines 29-68) wherein a cleaning composition is provided in the interstices of the scrim layer (column 5, lines 39-42). It would have been obvious to one of ordinary skill to have provided such a composition to the scrim material of Johnson so that a secondary supply of detergent needn't be required. The scrim as well as the fitment are each circular or disk-shaped (claims 12 and 24). The particular diameter of each would be obvious to one of ordinary skill depending on the amount of surface desired to be cleaned. With regard to claim 16, the patent to Magyar discloses a composition including (among other things) a surfactant, chelants, fragrance and coloring agents. Keep in mind that claims 16 and 17 only require one of the listed agents. The choice of particular cleaning compositions would be obvious to one of ordinary skill and one of ordinary skill would recognize that it is known to add various elements to the cleaning solution depending on the desired use thereof. The patent to Magyar discloses that the

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cleaning composition may include water soluble coloring agent (column 4, lines 56-62) (claims 19 and 28). The addition of such into the cleaning composition would produce a noticeable color change when exposed to water. In fact, the color change of the present application is produced in the same manner (a water soluble coloring agent). Odorants and perfumes may also be included (column 4, lines 50-56) as in claim 21. The fitment, including the base (50) and engagement member (52) thereof, are integral and comprised of a rubber or other suitable flexible elastomer-type material (column 2, lines 15-16) and the use of alternate known material having the desired properties would be obvious to one of ordinary skill.

3. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boulton (USP 1,992,939) in view of Siemund (USP 3,406,420). The patent to Boulton discloses a cleaning head (11) comprised of a sponge (19) and a one-piece fitment comprising a base (20) and an integral engagement member (21,22) adapted to removably engage a handle. Again, keep in mind that the handle is NOT positively recited. The patent to Boulton discloses the invention substantially as claimed with the exception of the scrim. The patent to Siemund discloses a sponge (24,26) cleaning member as well as a layer of scrim (12). It would have been obvious to one of ordinary skill to have provided the device of Boulton with such a scrim over the sponge to better remove encrusted dirt.

#### ***Response to Arguments***

4. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection, with the exception being the rejection(s) of claim 31. With regard to claim 31, the patents to Johnson and Boulton each discloses a cleaning head

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removably attached to a handle and including (1) a flexible or resilient fitment including a base as well as an integral engagement member as well as a cleaning material attached to an underside thereof. The present application includes a sponge, scrim, and a flexible fitment including a base and engagement member removable connected to a handle. It is noted that the handle of the present invention is **disclosed** as being fixed to the engagement member such that it normally is fixed thereto and normal to the plane of the base; however, there is no positively recited structure in claim 31 that is absent in the prior art. It would appear that applicant is arguing the disclosed (rather than claimed) differences. Keep in mind that claim 31 is still drawn to the sub-combination of the cleaning head and not to the combination with the handle anyway. Note in Johnson that the scrim material (61) is folded over the periphery of the foam (60) such that the (upper) portion of the scrim can be said to be attached to the underside of the base (50) of the fitment (claim 30). The final two lines pertain to no particular structure and fail to define over the prior art. The mere use of different functional language per se to describe what appears to be old does not serve to distinguish over the structure of the prior art.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Mark Spisich

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